

Law of Armed Conflict (LOAC) & Rules of Engagement (ROE)

Office of the Judge Advocate General
2d Infantry Division

Agenda

1. Purpose of the LOAC
2. Top Ten Principles of the LOAC
3. ROE

Why do WE need LOAC?

- To regulate how wars are fought and prohibit unlawful conduct
- To protect against unnecessary suffering
- To promote the humane treatment of noncombatants, wounded and sick, and civilians



Patrick Baz / AFP

What is LOAC?

- Law of Armed Conflict
 - Hague Regulations
 - Geneva Conventions
 - International customary law
 - International treaty law
- Regulation of Conduct During War
- Reflection of international legal values



Why do YOU need to follow the LOAC?

- It's the Law
 - Violations are punishable
- Adherence promotes support for U.S. operations
 - At home and abroad
- It's the Right thing to do
 - Moral Courage and Self Discipline are the hallmarks of a professional warrior

Why do YOU need to follow the LOAC?

- It's better for US Soldiers
 - Enemy is more likely to surrender
 - Chance the enemy will comply
- It's consistent with American values
 - We are the good guys

TOP TEN LOAC PRINCIPLES

1. Fight only combatants
2. Treat humanely all who surrender or are captured
3. Treat humanely all detainees and prisoners
4. Collect and care for the wounded
5. Treat the dead with respect
6. Do not attack medical personnel, facilities, or equipment
7. Destroy no more than the mission requires
8. Treat humanely all civilians
9. Respect personal property and possessions
10. Prevent and report LOAC violations

Principle #1: Fight only combatants

“Combatant”: Anyone engaging in hostilities

- A. Forces “declared” hostile
- B. Unprivileged belligerents
 - Spies, Saboteurs, Terrorists



Mirrorpix / Getty Images



Principle #1: Fight only combatants

A. Forces “declared” hostile



(AFP PHOTO/FILE)

Principle #1: Fight only combatants

- B. Unprivileged Belligerents: Anyone who conducts a hostile act or displays a hostile intent



Don't Violate Principle #1



“I was only following orders” and “ambiguous orders” are not a defense to war crimes: Mai Lai Village, Vietnam, March 1968, Civilian women, children and infants “suspected” of aiding the NVA enemy were killed by U.S. ground forces.

Principle #2: Treat humanely all who surrender or are

- A. Follow the 5 Captured
- B. Provide Humane Treatment
- C. Respect and Protect



Principle #2: Treat humanely all who surrender or are

A. The 5 Ss and Capture

1. Search

- Disarm

2. Silence

3. Segregate

- By military rank
- Civilians from Military
- Military from Militia

4. Safeguard

- Protect from further harm

5. Speed to a safe area

- Turnover to proper holding facility for processing

6. Tag



Principle #2: Treat humanely all who surrender or are

B. Provide Humane Treatment

- Medical Treatment
- Food
- Water
- Shelter
- Basic Hygiene Care
- Clothing



Principle #2: Treat humanely all who surrender or are

c. Respect and capture Protect

- Protect from retaliation or retribution
- Protect from public humiliation or curiosity
- Respect for person, honor, cultural beliefs



Soldier posing for a “trophy”
photo with Saddam Hussein

Principle #3: Treat humanely all detainees and prisoners

- Killing prisoners is a crime
 - Report suspected violations
- Torturing prisoners is a crime
 - Whether for information or retribution, don't do it
- Protect against physical mutilation and acts of violence
- Women shall be treated with respect
 - Protected from Sexual assault
 - Entitled to respect for their persons and honor



Don't Violate Principle #3

Abu Ghraib Convictions

So far, 11 soldiers, all enlisted, have been convicted by courts martial of charges stemming from prisoner abuse at Abu Ghraib including:

PFC Lynndie England: Sentenced to 3 years in prison and a Dishonorable Discharge.

CPL Charles Graner Jr.: Sentenced to 10 years in prison, reduction to PVT, and a Dishonorable Discharge.

SSG Ivan Frederick: Sentenced to 8 and 1/2 years in prison, reduction to PVT, and a Dishonorable Discharge.

SPC Megan Ambuhl: Sentenced to reduction to PVT, forfeiture of half month's pay, and a Bad Conduct Discharge.

Principle #4: Collect and care for the wounded

- The law requires you to care for enemy wounded
 - Once they are out of the fight, take care of them
 - Triage most seriously wounded whether friendly or enemy
 - Safeguard from further attack



Principle #4: Collect and care for the wounded



“Many Americans have seen the picture of Marine **LCPL Marco Ware** carrying a wounded Iraqi to safety for medical treatment. **That's a picture of the strength and goodness of the U.S. Marines.**”

President G.W. Bush

Don't Violate Principle #4

'Mercy Killer' GI Gets Three Years

BAGHDAD, Dec. 11, 2004

(CBS/AP) A U.S. soldier was sentenced to three years in prison after pleading guilty to killing a severely wounded Iraqi teenager, the military said Saturday.

Staff Sgt. Johnny M. Horne Jr., 30, of Winston-Salem, N.C., also received a reduction in rank to private, forfeiture of wages and a dishonorable discharge.

The charges relate to the Aug. 18 killing of a 16-year-old Iraqi male found in a burning truck with severe abdominal wounds sustained during clashes in Baghdad's Sadr City, an impoverished neighborhood that was the scene of fierce fighting between U.S. forces and Shiite rebels loyal to anti-U.S. cleric Muqtada al-Sadr.

Principle #5: Treat the dead with respect

- Leave Body intact
 - Don't disfigure, dismember or attack the dead
- No "war" trophies or trophy photos
- Anything removed should be reported to your higher HQs
 - Take away weapons & intel material
 - Account for personal identification info/tags
 - Account for any personal property (personal photos, wedding band)

Don't Violate Principle #5



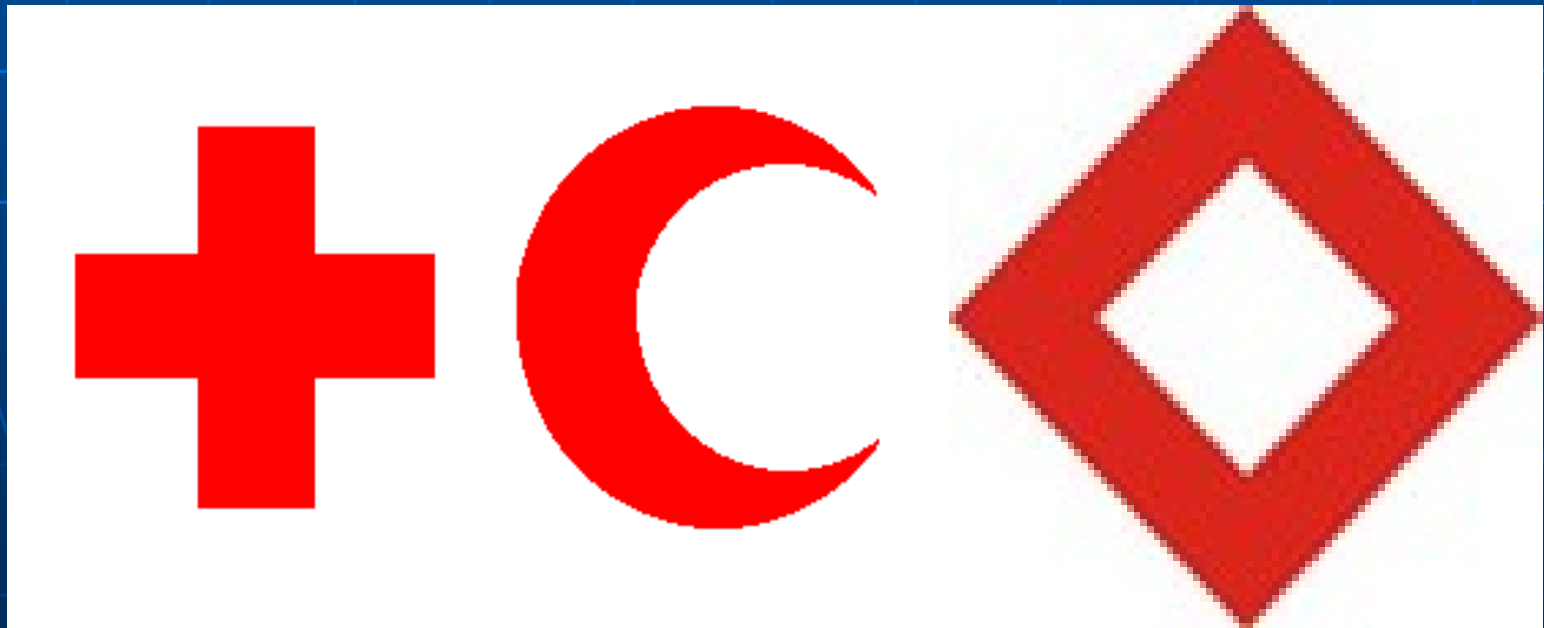
Serbian soldiers kick the body of a dead Kosovar



SPC Graner before conviction on abuse charges

Principle #6 Do not attack medical personnel, facilities, or equipment

- Red Cross, Red Crescent, or Red Crystal on white background



Principle #6 Do not attack medical personnel, facilities, or equipment.

- Respect and Protect
 - Medical Vehicles, Aircraft, and Ambulances
 - Fixed Medical Establishments
 - Mobile Medical Units
 - Medical Personnel
 - Exclusively engaged in the search for, collection, transport or treatment of the wounded or sick; or prevention of disease
 - Staff exclusively engaged in the administration of medical units and establishments
 - Chaplains
 - Personnel of national Red Cross/Crescent Societies or recognized relief organizations

Principle #7: Destroy no more than the mission requires

- Only target legitimate military objectives
 - Avoid excessive or wanton destruction of private property
- Only attack areas containing combatants
 - Forts
 - A place occupied by a hostile force



Thorne Anderson / Corbis

Principle #8: Treat humanely all civilians

- Civilians must be respected
 - Never intentionally target civilians
 - Help civilians if safe to do so and it doesn't interfere with your mission



Chris Helgren / Reuters



Mario Tama / Getty Images

Principle #8: Treat humanely all civilians

- No adverse distinction based on race, religion, sex, etc.
- No violence to life or person
- No hostage taking
- No degrading treatment
- No passing of sentences without fair trial
- Must care for the wounded and sick



Principle #9: Respect private property and possessions

- War trophies:
 - Do not retain without express authorization from Commander
- Civilian Property:
 - Do not retain unless it is contraband
 - The taking of personal property for immediate military necessity or emergency is permissible



Don't Violate Principle #9

Soldier who helped commandeer sheik's SUV convicted of armed robbery in court-martial

By Kimberly Hefling

ASSOCIATED PRESS

2:11 p.m. July 29, 2004

FORT CAMPBELL, Ky. – A military jury found a soldier guilty of armed robbery Thursday for taking an Iraqi sheik's sport utility vehicle at gunpoint.

The panel also convicted Sgt. 1st Class James Williams of willful dereliction of duty for allowing his soldiers to consume alcohol in Iraq. He faces up to 15 years in prison.

Williams, 37, of Westmoreland County, Va., maintains he helped take the SUV only because his lieutenant ordered him to procure a vehicle and because he did not think it was a criminal act.

Principle #10: Prevent & report LOAC violations

- Report all suspected LOAC violations to your chain of command
 - Enemy or Friendly
- Report all suspected LOAC violations to your Judge Advocate
 - They are there to assist you
- It is your duty to know the LOAC and follow the rules
- If you are ordered to commit a criminal act or LOAC violation, you are under an obligation to refuse the order
 - “I was just following orders” is NOT a defense

Why do WE need LOAC?



General Dwight D. Eisenhower (center), Supreme Allied Commander, views the corpses of inmates who perished at the Ohrdruf camp. Ohrdruf, Germany, April 12, 1945. (National Archives)



The remains of several hundred Tutsi civilians who were massacred during the country's 1994 genocide were exhumed and reburied as a memorial to the victims of genocide in Kaduha in 1995. Hundreds of thousands of Rwandan children died as a result of genocide and war. Those who survived have lived through unspeakable atrocities. © 1995 Corinne Dufka

“All that is necessary for the triumph of Evil is for good men to do nothing”

Summary of the LOAC

- Know & Obey the LOAC:
 - It's the law
 - It's your duty
- Only attack whomever and whatever is necessary to accomplish a legitimate military objective
- Avoid inflicting unnecessary suffering
- Only use that force and means necessary to accomplish your mission

Rules of Engagement (ROE)

Purposes of ROE

- **Political**
 - **Ensure national policy objectives are reflected in actions on the ground**
- **Military**
 - **Ensure unit actions do not trigger undesired escalation**
- **Legal**
 - **Ensure compliance with the LOAC and domestic law**

Definition of ROE

- **Directives issued by competent military authority to delineate the circumstances and limitations under which U.S. Forces will initiate and/or continue combat engagement with other forces encountered.**

Factors Used to Formulate ROE

- Law of Armed Conflict
- US laws
- Domestic law of Allied Countries
- Operational, International, and Political concerns
- JCS Standing Rules of Engagement (SROE)
- USFK SROE (Armistice or Wartime ROE)
- Mission
- Commander's intent
- Intelligence

Six Common Principles of ROE

- 1. Inherent Right of Self-Defense**
- 2. Necessity**
- 3. Proportionality**
- 4. Hostile Act**
- 5. Hostile Intent**
- 6. Hostile Force**

1. Inherent Right of Self-Defense

Commanders have the authority and the obligation to use all necessary means available and to take all appropriate action to defend their units against hostile acts or demonstrated hostile intent.

1. Inherent Right of Self-Defense

Unless otherwise directed by a unit commander, individuals may exercise individual self defense in response to a hostile act or demonstrated hostile intent.

1. Inherent Right of Self-Defense

Individuals and commanders must, however, comply with the requirements of necessity and proportionality when making self-defense decisions.

2. Necessity

Military necessity is the amount of force required to accomplish the mission.

This does not authorize acts that violate other principles of the LOAC.

3. Proportionality

Any force used must be reasonable in intensity, duration, and magnitude, based on the facts known at the time, to gain a concrete and direct military advantage.

4. Hostile Act

- **Use of force by a foreign force or terrorist unit against:**
 - the United States or U.S. forces;
 - in certain circumstances, U.S. citizens, their property, or U.S. commercial assets;
 - other designated non-U.S. forces, or foreign nationals and their property.

5. Hostile Intent

- Threat of imminent use of force by a foreign force or terrorist unit against:
 - the United States or U.S. forces;
 - in certain circumstances, U.S. citizens, their property, or U.S. commercial assets;
 - other designated non-U.S. forces, or foreign nationals and their property.

5. Hostile Intent

- Is Hostile intent:
 - Carrying weapons?
 - Talking on a cell phone?
 - Running away from a checkpoint?
 - Ignoring a command to halt?
 - Throwing rocks and sticks?

- Situational Awareness and Sound Judgment

6. Hostile Force

- Any force or terrorist unit (civilian, paramilitary, or military) that has been declared “hostile” by appropriate authority.
- Once a force has been designated a “hostile force,” U.S. forces need not observe a hostile act or hostile intent prior to engaging that force.

ROE in Korea

- **Armistice and Wartime ROE are classified**
 - **to prevent opposing forces from discovering exactly how the United States will react to acts of aggression.**
- **Commanders are responsible to know and train both AROE and WROE**

ROE in Korea

(Unclassified)

- Authorizes self defense for Korean allies, civilians, and their property.
- Provides special rules in and around the DMZ and Han River Estuary
- Commanders at all levels can request modification to the ROE.

QUESTIONS?